

By: Blanco

H.B. No. 3041

A BILL TO BE ENTITLED

AN ACT

relating to the ability of a nonexempt employee to participate in certain academic, extracurricular, and developmental activities of the employee's child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Labor Code, is amended by adding Chapter 83 to read as follows:

CHAPTER 83. EMPLOYEE RIGHT TO PARTICIPATION

IN CERTAIN ACTIVITIES OF EMPLOYEE'S CHILD

Sec. 83.001. DEFINITIONS. In this chapter:

(1) "Employee" means a person other than an independent contractor who, for compensation, performs services for an employer under a written or oral contract of hire, whether express or implied. The term includes an employee engaged to work flexible hours established periodically by the employer.

(2) "Employer" means a person who employs more than 25 employees in this state, regardless of whether those employees are exempt from the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.). The term includes a public employer.

(3) "Reasonable advance written notice" means the period, determined by the employer, for an employee to provide written notice of the employee's planned absence under this chapter.

1       Sec. 83.002. APPLICABILITY. This chapter applies to an  
2 employee who:

3           (1) is a parent as defined by Section 101.024, Family  
4 Code, legal guardian, custodial caregiver, managing conservator,  
5 or possessory conservator of a child who is in a licensed or  
6 certified child-care facility or prekindergarten through grade 12;

7           (2) has been employed for not less than 90 days by the  
8 employer granting the unpaid time off; and

9           (3) is not exempt from the overtime provisions of the  
10 federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et  
11 seq.).

12       Sec. 83.003. EMPLOYEE RIGHT TO PARTICIPATE IN CERTAIN  
13 ACTIVITIES OF EMPLOYEE'S CHILD. (a) An employee who is subject to  
14 this chapter is entitled to unpaid time off as provided by this  
15 section to:

16           (1) meet with a teacher, counselor, or school  
17 administrator of the employee's child or with a caregiver of the  
18 child in a child-care facility; or

19           (2) participate in a facility or school activity of  
20 the employee's child, including award ceremonies, school  
21 productions or events in which the child is participating, or  
22 hearings regarding admission, review, or dismissal.

23       (b) Except as limited by Subsection (c):

24           (1) an employee who works at least 30 hours a week is  
25 entitled under this section to up to eight hours of time off at one  
26 time but not more than 20 total hours in any one-year period; and

27           (2) an employee who works less than 30 hours a week is

1 entitled under this section to up to eight hours of time off at one  
2 time but not more than 15 total hours in any one-year period.

3 (c) An employee is not entitled to take time off under this  
4 section more than two times in a one-month period.

5 (d) Before taking time off under this section, an employee  
6 must provide the employer with reasonable advance written notice of  
7 the planned absence of the employee, unless the need for the absence  
8 was not reasonably foreseeable. The notice must include the date  
9 and time of the planned absence and a brief description of the  
10 meeting or activity in which the employee will be participating. An  
11 employer may not require notice under this subsection of more than  
12 seven calendar days.

13 Sec. 83.004. USE OF LEAVE TIME. (a) An employee may, but is  
14 not required to, use existing vacation leave time, personal leave  
15 time, or compensatory leave time for the purpose of a planned  
16 absence authorized by this chapter except as otherwise provided by  
17 a collective bargaining agreement entered into before September 1,  
18 2017.

19 (b) The use of leave time under this section may not be  
20 restricted by a term or condition adopted under a collective  
21 bargaining agreement entered into on or after September 1, 2017.

22 Sec. 83.005. DOCUMENTATION. (a) An employee shall provide  
23 documentation to the employer of the employee's attendance at a  
24 meeting or participation in a particular activity on the employer's  
25 request. An employer may waive the documentation requirement.

26 (b) For purposes of this section, "documentation" means any  
27 verification of parental attendance at a meeting or participation

1 in a facility or school activity that the child's facility or school  
2 considers reasonable and appropriate.

3 Sec. 83.006. SAME EMPLOYER. If both parents of a child are  
4 employed by the same employer at the same workplace, the  
5 entitlement granted under Section 83.003 may be exercised as  
6 regards a specific meeting or activity of that child only by the  
7 employee who first gives notice to the employer as required under  
8 Section 83.003(d). The other parent is entitled to time off to  
9 attend the meeting or activity only as approved by the employer.

10 Sec. 83.007. EMPLOYER RETALIATION PROHIBITED. (a) An  
11 employer may not suspend or terminate the employment of, or  
12 otherwise discriminate against, an employee who takes a planned  
13 absence authorized by this chapter to attend a meeting or  
14 participate in an activity of the employee's child if the employee  
15 has fulfilled the requirements of Section 83.003(d).

16 (b) An employee whose employment is suspended or terminated  
17 in violation of this chapter is entitled to:

18 (1) reinstatement to the employee's former position or  
19 a position that is comparable in terms of compensation, benefits,  
20 and other conditions of employment;

21 (2) compensation for wages lost during the period of  
22 suspension or termination;

23 (3) reinstatement of any fringe benefits and seniority  
24 rights lost because of the suspension or termination; and

25 (4) if the employee brings an action to enforce this  
26 subsection and is the prevailing party, payment by the employer of  
27 court costs and reasonable attorney's fees.

1        (c) An employer may not decline to interview or hire an  
2 applicant solely because the applicant is a parent, legal guardian,  
3 custodial caregiver, managing conservator, or possessory  
4 conservator of a child in a licensed or certified child-care  
5 facility or prekindergarten through grade 12.

6        Sec. 83.008. NOTICE TO EMPLOYEES. (a) Each employer shall  
7 inform its employees of their rights under this chapter by posting a  
8 conspicuous sign in a prominent location in the employer's  
9 workplace.

10        (b) The Texas Workforce Commission by rule shall prescribe  
11 the design and content of the sign required by this section.

12        SECTION 2. This Act applies only to a suspension,  
13 termination, or other adverse employment action that is taken by an  
14 employer against an employee because of an employee absence  
15 authorized under Chapter 83, Labor Code, as added by this Act, that  
16 occurs on or after the effective date of this Act. Action taken by  
17 an employer against an employee for an employee absence occurring  
18 before that date is governed by the law in effect on the date the  
19 absence occurred, and the former law is continued in effect for that  
20 purpose.

21        SECTION 3. This Act takes effect September 1, 2017.